

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:10CV22-RLV

NEW NGC, INC.,  
Plaintiff,

v.


ACE AMERICAN INSURANCE COMPANY,  
et. al.,  
Defendants.

ORDER

THIS MATTER is before the Court on a letter dated June 12, 2013, from Defendants, ACE American Insurance Company and National Union Fire Insurance Company of Pittsburgh, Pennsylvania, as well as Plaintiff New NGC, Incorporated requesting the Court delay its ruling 60 days on Summary Judgment Motions before the Court in the above captioned matter in order for the parties to mediate the remaining issues in this matter. Upon review of the Motion the Court will continue this matter to the next trial term.

IT IS, THEREFORE, ORDERED that this case is hereby continued from the July 8, 2013, trial term in the Statesville Division to the September 3, 2013, trial term in the Statesville Division. IT IS, FURTHER, ORDERED that the parties submit a status report to the Court by August 15, 2013. Moreover, if the parties fell to resolve the remaining issues in this matter, the parties are instructed to be ready for trial during our September 3, 2013, trial term in the Statesville Division.

THIS 18 DAY OF JUNE, 2013.



RICHARD L. VOORHEES  
UNITED STATES DISTRICT JUDGE



Joseph A. Ziemianski  
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**VIA FACSIMILE (704. 350.7447)  
AND UPS OVERNIGHT**

June 12, 2013

The Honorable Richard L. Voorhees  
250 Charles R. Jonas Federal Bldg.  
401 West Trade Street  
Charlotte , NC 28202

Re: *New NGC, Inc. v. ACE American Insurance Company, et al.*  
No. Civ. A. 3:10-cv-RLV-DSC (W.D.N.C.)

Dear Judge Voorhees:

I write on behalf of my client, Defendant ACE American Insurance Company ("ACE"), as well as counsel for Plaintiff New NGC, Inc. ("NGC") and Defendant National Union Fire Insurance Company of Pittsburgh, PA ("National Union") (collectively, the "parties").

As the Court is aware, on February 2, 2011, NGC filed a Motion for Partial Summary Judgment in this case, and ACE and National Union filed Oppositions, and on May 19, 2011, National Union filed a Motion for Partial Summary Judgment in this case, and NGC filed an Opposition. Recently, on May 17, 2013, the parties learned from your law clerks that a summary judgment ruling is forthcoming.

At the time the parties briefed these motions, the underlying lawsuits against NGC were in their early stages and the resulting uncertainty over the magnitude of NGC's potential liability made mediation impractical. Based on very recent developments, the underlying lawsuits largely have all been resolved, and the parties now believe that they are able to address the issue of NGC's incurred defense expenses in connection with these lawsuits. Accordingly, the parties believe that renewed efforts at mediation at this time will be productive and, indeed, may resolve the parties' issues and therefore obviate the need for judicial intervention. To that end, counsel for the parties have conferred and agreed that ACE and NGC will mediate in the near future, and that National Union may participate as well.

We are sensitive to the fact that this Court intends to issue a summary judgment ruling soon. However, because the parties believe that this case can be resolved through mediation, we respectfully request that the Court delay issuing its ruling 60 days from the date of this letter to provide the parties with a window of opportunity in which to mediate and seek informal resolution of this matter.

Thank you in advance for your consideration of this request.

With best regards, I am

Sincerely yours,

COZEN O'CONNOR

A handwritten signature in black ink, reading "Joseph A. Ziemianski". The signature is fluid and cursive, with the first name "Joseph" and last name "Ziemianski" clearly legible.

Joseph A. Ziemianski

cc: **VIA E-MAIL**

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